

Appl. No. : 08/765,837  
Filed : July 14, 1995

ID No: 5), a human Factor VIII fragment contained between methionine 1823 and aspartic acid 1831 (SEQ ID No: 6), a human Factor VIII fragment contained between glutamic acid 1885 and phenylalanine 1891 (SEQ ID No: 7), a human Factor VIII fragment contained between glutamic acid 1893 and alanine 1901 (SEQ ID No: 8), and a human Factor VIII fragment contained between aspartic acid 1909 and arginine 1917 (SEQ ID No: 9).

### REMARKS

Claims 31, 32, and 36 have been amended to place the application in condition for allowance. Claims 40-42 have been canceled. New Claims 43, 44, and 45 have been added. Therefore, Claims 31-36, 39, and 43-45 are now pending. Total number of claims does not exceed the number of Claims pending before mailing of the Final Office Action. The Support for the new Claim 43 can be found in the Specification as filed (page 18, lines 31-36). Support for the new Claims 44 and 45 can be found in the Claims 31 and 32. No new matter has been introduced herewith. The following addresses the substance of the current Office Action.

#### Claim rejections under 35 U.S.C. §102

The Examiner has maintained his rejection of Claims 31-34, 36 and 39 under 35 U.S.C. §102(b) over Capon *et al.* (US 4,965,199). More specifically, the Examiner believes that Claims 31-34, 36 and 39 are unpatentable over the fragment 1799-1860 of human Factor VIII in '199 patent because they recite a fragment of human Factor VIII between the amino acids 1739 and 1831. The Applicants have amended Claims 31 and 32 to specifically exclude such fragment. Therefore, the Applicants respectfully assert that the now amended Claims 31-34, 36 and 39 are patentable over Capon *et al.*

With respect to new Claims 45 and 46, Applicants note that they include the human Factor VIII fragment between amino acids 1739 and 1831 (Claim 45), fragments between amino acids 1794 and 1815 (Claim 46) and fragments between amino acids 1823 and 1831 (Claim 46). With respect to the fragment between amino acids 1739 and 1831 recited in Claim 45, Applicants maintain that this fragment is not anticipated by the disclosure of the fragment between amino acid 1799 and amino acid 1860 in Capon because the claimed fragment does not encompass the

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full fragment disclosed in Capon but instead includes amino terminal residues not included in the fragment disclosed in Capon and is truncated at the carboxy terminus relative to the fragment disclosed in Capon. Applicant further maintains that one skilled in the art would not appreciate that the claimed fragment was immunogenic based on the disclosure in Capon and that prior to Applicants discovery that the fragment was in fact immunogenic, there was no suggestion in the cited reference that the claimed fragment is immunogenic.

With respect to the fragment between amino acids 1794 and 1815 recited in Claim 46, Applicants note that a portion of the fragment includes amino terminal residues not included in the fragment disclosed in Capon and is truncated at the carboxy terminus relative to the fragment disclosed in Capon. Applicant further maintains that one skilled in the art would not appreciate that the claimed fragment was immunogenic based on the disclosure in Capon and that prior to Applicants discovery that the fragment was in fact immunogenic, there was no suggestion in the cited reference that the claimed fragment is immunogenic.

With respect to the fragment between amino acids 1823 and 1831 recited in Claim 46, Applicants maintain that, although this fragment is included in the fragment disclosed in Capon, as discussed above there was no teaching or suggestion in Capon that this subfragment is immunogenic.

For the foregoing reasons, Applicants maintain that the claims are patentable over the cited references.

Claim 36 was amended to clarify that the complex has a greater level of immunogenicity than the polypeptides of Claim 31. Support for the amendment can be found in the Specification as filed (page 18, lines 31-36).

#### **Allowable subject matter**

The Examiner has indicated that Claim 35 is allowed.

#### **Telephonic Interview if any Issues Remain**

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Applicants request that if the Examiner believes the above amendments do not place the application in condition for allowance, he contacts the undersigned to schedule a telephonic interview of the claims with respect to the cited references.

### CONCLUSION

Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Final Office Action. Accordingly, amendments to the claims, the reasons therefor, and arguments in support of the patentability of the pending claim set are presented above. In light of the above amendments and remarks, prompt allowance of the pending claims is specifically requested.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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